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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,365

06/02/2005

Dieter Goldbach

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

EXAMINER

HSIAO, JAMES K

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,365	Applicant(s) GOLDBACH ET AL.	
	Examiner JAMES K. HSIAO	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 39-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weng (US-5597053) in view of Whitworth (US-1576811).

Regarding claims 39, 43-45, 47 and 48, Weng discloses a brake pad having a lining support formed of a first material (fig 1) selected from a group of steel or titanium, a friction lining having a surface (fig 1), a plurality of studs (30) of different lengths (studs that insert into 10), formed of a second material (abstract) which is softer than the first material fixed to the lining support, wherein at least one of the plurality of studs passes through the friction lining up to a lining surface of the friction lining (fig 1), wherein the studs abrade with the lining surface of the friction lining during braking (abstract).

Weng lacks to disclose the use of a non ferrus metal as the second material. Whitworth teaches a material of a soft brass material (20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the brake lining of Weng with the soft brass of Whitworth because attaching the brass studs to a harder material makes a permanent and satisfactory welded joint with the steel of a lining support (col. 2, lines 81-87).

Art Unit: 3683

Regarding claims 40, 41, 45, 46, 48 and 49 Weng lacks to disclose a method of welding. Whitworth teaches a method for attachment of studs (40) to a lining support (14)'comprising forming the studs from a soft brass material and the lining support from a harder material. (Fig 7-9) It would have been obvious to one of ordinary skill in the art to attach brass studs to a harder material since brass makes a permanent and satisfactory welded joint with the steel of the lining support as taught by Whitworth. (Column 2, lines 81-87)

Regarding claim 50, Weng and Whitworth do not specify the use of a brass that is MS 60. MS 60 is a well known type of brass and is merely a design choice.

Regarding claim 51, it is inherent that a length and diameter are selected when designing and manufacturing a stud.

3. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weng (US-5597053) in view of Hoffrichter et al. (US-6851527).

Regarding claim 42, Weng lacks a layer in between the lining and the lining support. Hoffrichter teaches a layer in between the lining and the lining support (4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the brake pad of Weng with layer of Hoffrichter in order to provide a damping layer in the braking pad.

Response to Arguments

Applicant's arguments with respect to claims 39-51 have been considered but they are not persuasive. Regarding the argument that the combination of the

Art Unit: 3683

references would destroy the purpose of the primary reference, the rejection does not rely on the primary reference for the purpose of that reference. The rejection relies on the structure for purposes of examination.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES K. HSIAO whose telephone number is (571)272-6259. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The

Art Unit: 3683

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKH

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3683